

CHAPTER 539

2d Rdg. 797

Nos. 2703, 4479

Int. 2551

IN ASSEMBLY

February 13, 1956

Introduced by Mr. OSTRANDER—read once and referred to the
Committee on Labor and Industries—reported from said com-
mittee with amendments, ordered reprinted as amended and
placed on the order of second reading

AN ACT

To amend the labor law, in relation to the payment of wages
and salaries

Notes

Jurats and Enacting Clause

Compared by

Northcott & Murtagh

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APR 11 1956

Approved by

MICROFILMED

DATE 2/16/59

NO. OF PRINTED BILLS 4

NO. OF EXPOSURES

EXCLUSIVE OF BILLS 24

State of New York

In Assembly

MAR 15 1956

Ordered, That the Clerk deliver the bill entitled

AN ACT

To amend the labor law, in relation to the payment of wages
and salaries

to the Senate, and request its concurrence in the same.

By order of the Assembly

ANSLEY B. BORKOWSKI

Clerk

IN SENATE

Passed Without Amendment

MAY 20 1956

By order of the SENATE

William S. Hey
SECRETARY

White Collar Coverage under Wage
Payment Law

12/20/15

LEGISLATIVE HISTORY

To amend the labor law, in relation
to the payment of wages and salaries

This bill has not been introduced in any previous session
of the Legislature.

SUPPORTING STATEMENT

To amend the labor law, in relation
to the payment of wages and salaries

The term "employee" is defined in Section 2, subdivision 5 of the Labor Law to mean "...a mechanic, workman or laborer working for another for hire." The term "employer" is defined in Section 2, subdivision 6 to mean "...the person employing any such mechanic, workman or laborer...".

The effect of these restrictive definitions is that office workers, such as typist, stenographers, and clerks, and other non-manual employees do not have the protection of the Labor Law provisions for the prompt payment of wages and the assistance of the Department of Labor in the collection of unpaid wages.

At the 1955 legislative session wage payment protection was afforded to salesmen by Chapter 620.

The attached bill would permit the Department of Labor to assist typists, stenographers, clerks, and other office workers in the collection of their unpaid wages in the same manner that the Department assists manual workers in their wage claims. The bill does not contain any specific time requirement for the payment of wages; it merely requires that wages and salaries shall be paid in accordance with the agreed terms of employment.

This bill will in no way upset existing wage plans under which office workers are paid on a semi-monthly or monthly basis.

Persons employed in a bona fide executive, administrative or professional capacity whose earnings exceed one hundred dollars a week would not be covered by the provisions of the attached bill.

12/20/55

AN ACT to amend the labor law, in relation to the payment of wages and salaries

The People of the State of New York,
represented in Senate and Assembly,
do enact as follows:

Section 1. The labor law is hereby amended by inserting therein a new section, to be section one hundred ninety-six-c, to read as follows:

§ 196-c. Payment of wages and salaries of other persons employed.
Every employer carrying on a business by lease or otherwise shall pay to each individual in his employ the wages and salary earned in accordance with the agreed terms of employment.

The term "employer" as used in this section shall include any person, co-partnership, corporation, or joint stock association employing any individual in any occupation, industry, trade, business, or service.

The provisions of sections one hundred ninety-seven, one hundred ninety-eight, one hundred ninety-nine and one hundred ninety-nine-b shall apply to the wages and salaries described in this section.

This section shall not apply to any person employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of one hundred dollars a week, nor to persons covered by the provisions of sections one hundred ninety-six or one hundred ninety-six-a, or by article nineteen of this chapter, or by any order promulgated under such article.

Section 2. This act shall take effect immediately.



STATE OF NEW YORK
DEPARTMENT OF LABOR
ALBANY

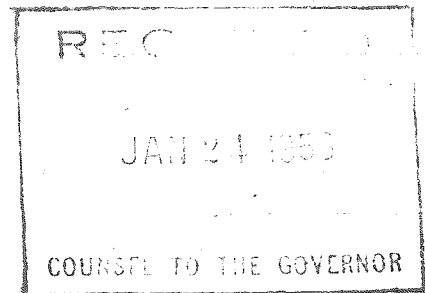
NEW YORK OFFICE 80 CENTRE STREET

ISADOR LUBIN
INDUSTRIAL COMMISSIONER

NEW YORK 13, N.Y.

January 19, 1956

Hon. Daniel Gutman
Counsel to the Governor
Executive Chambers
The Capitol
Albany 1, New York



Dear Mr. Gutman:

Pursuant to your request, I enclose seven backed copies of each of the following bills which have been approved for introduction. I also enclose nine copies of the supporting statement for each bill.

Labor Law - Section 196-c

Labor Law - Section 220
Subd. 5-a (new)

Labor Law - Article 8
Section 223

Labor Law - Section 662

Labor Law - Section 241

I also enclose nine copies of the legislative history of each of the above bills.

I am also transmitting to the Budget Director, one backed copy of each of the bills together with its supporting memorandum and legislative history.

Sincerely yours,


Isador Lubin
Industrial Commissioner

6

IL:Fml
Encs.

SUPPORTING STATEMENT

To amend the labor law, in relation
to the payment of wages and salaries

The term "employee" is defined in Section 2, subdivision 5 of the Labor Law to mean "...a mechanic, workman or laborer working for another for hire." The term "employer" is defined in Section 2, subdivision 6 to mean "...the person employing any such mechanic, workman or laborer...".

The effect of these restrictive definitions is that office workers, such as typist, stenographers, and clerks, and other non-manual employees do not have the protection of the Labor Law provisions for the prompt payment of wages and the assistance of the Department of Labor in the collection of unpaid wages.

At the 1955 legislative session wage payment protection was afforded to salesmen by Chapter 620.

The attached bill would permit the Department of Labor to assist typists, stenographers, clerks, and other office workers in the collection of ~~their~~ unpaid wages in the same manner that the Department assists manual workers in their wage claims. The bill does not contain any specific time requirement for the payment of wages; it merely requires that wages and salaries shall be paid in accordance with the agreed terms of employment.

This bill will in no way upset existing wage plans under which office workers are paid on a semi-monthly or monthly basis.

Persons employed in a bona fide executive, administrative or professional capacity whose earnings exceed one hundred dollars a week would not be covered by the provisions of the attached bill.

and lab

1956 Session

Law... Labor Sections..... 196-c

Subject and Purpose... To extend the wage payment provisions of the labor law to

certain employees not now included,

.....

Division of the Budget recommendation on the above bill:

Approve: _____ Disapprove: X No Recommendation: _____

*for until amended as
recommended below. DH.*

If mechanics, workingmen and laborers are not paid their wages as provided by the labor law, they may obtain the assistance of the Industrial Commissioner who will prosecute the claim in the name of the employee. Employers who violate the wage payment provisions of the labor law are also subject to certain penalties as prescribed by the penal law. This protection does not extend to the "white collar" workers nor to executive and professional staff.

The proposed bill, without upsetting existing employment agreements, would extend the wage payment provisions to all employees not otherwise covered except those employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of \$100 a week.

This legislation is desirable since employees not now covered must resort to civil action to recover unpaid wages.

The additional cost to administer the new provision is estimated at \$10,000. The Department of Labor budget for 1956-57 does not provide funds for this purpose.

The bill should be amended to carry an appropriation of \$10,000.

Date: January 24, 1956

Examiner: John E. Burke

Disposition:



STATE OF NEW YORK
ALBANY

JOHN L. OSTRANDER
CHAIRMAN
LABOR AND INDUSTRIES COMMITTEE

March 27th, 1956

Hon. Daniel Gutman
Executive Chamber
State Capitol
Albany, New York

Re: Assembly Bill Intro. 2551
Print 4479

Dear Mr. Gutman:

This bill was introduced by me at the request of the Department of Labor.

In its original form (Print 2703) it was opposed by the New York State Council of Retail Merchants, the Association of Casualty and Surety Companies and by Associated Industries.

A conference between Associated Industry and the Labor Department resulted in the present wording (Print 4479). I do not know the present position of either the Council of Retail Merchants or the Association of Casualty and Surety Companies.

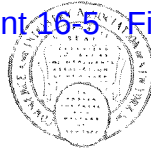
It is supported strongly by the Commerce and Industry Association of New York.

I am enclosing herewith a copy of the memorandum furnished to me by the Department of Labor.

Because of additional benefits and protection which will be afforded to office workers its approval is respectfully requested.

Sincerely yours,

John L. Ostrander
John L. Ostrander



COMMERCE AND INDUSTRY ASSOCIATION OF NEW YORK

INCORPORATED

99 CHURCH STREET • NEW YORK 7, N. Y.

Cable Address COMINDASSN • Telephone Rector 2-5200

March 28, 1956

RECEIVED

MAR 29 1956

COUNSEL TO THE GOVERNOR

A 2551
Hon. Daniel Gutman, Counsel to the Governor
Executive Chamber
The Capitol
Albany 1, New York

Dear Judge Gutman:

Enclosed is a copy of a letter which I sent today to Governor Harriman, urging him to sign Assembly Int. 2551 which would give the Industrial Commissioner power to act on behalf of office workers in the pursuit of back-wage claims against recalcitrant employers.

This proposal was sponsored by the Department of Labor and has our wholehearted support.

It will remove a gross inequity under the present law which gives factory workers a meaningful remedy in the collection of back wages, while office workers, similarly aggrieved, must fend for themselves.

Sincerely yours,

Thomas Jefferson Miley
Executive Vice President

TJM:cw
Enc.

10

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EDMUND F. WAGNER, President,
General Realty & Utilities Corp.
FRANCIS L. WHITMARSH, President, Francis H. Leggett & Co.

99 Church Street - New York 7, N. Y.

March 28, 1956

Hon. Averell Harriman
Governor of the State of New York
Executive Chamber
Albany 1, New York

Re: Assembly Int. 2551, Pr. 1479

Dear Governor Harriman:

The Commerce and Industry Association supports the subject bill which was sponsored by the Department of Labor, was passed by the Legislature, and is now before you for action.

Under Article 6 of the Labor Law, the Industrial Commissioner is empowered to act on behalf of aggrieved employees in seeking to recover back-wage claims, through the courts or otherwise. However, "employee" is defined in the Labor Law to include only mechanics, workmen and laborers; and this has been construed to exclude office workers. Consequently, white-collar employees with legitimate back-wage claims frequently have no effective way of recovering what is due them.

Thus, under the present law, if a recalcitrant employer fails to pay wages due to those in his employ, the Labor Department can act on behalf of his factory workers but must ignore the identical complaints of his office employees. White-collar workers are left to their own devices in pursuing back-wage claims. This often means that as a practical matter they have no real remedy at all.

Assembly Int. 2551 would remove the gross inequity in the present law. We hope for these reasons you will approve the subject proposal.

Sincerely yours,

Thomas Jefferson Miley
Executive Vice President

TJM:cw

c. c. Hon. Daniel Gutman, Counsel to the Governor
Hon. Isador Lubin, Industrial Commissioner of New York State
Mr. Charles A. Pearce, Director, Division of Research & Statistics



STATE OF NEW YORK
DEPARTMENT OF LAW
ALBANY

JACOB K. JAVITS
ATTORNEY GENERAL

JAMES O. MOORE, JR.
SOLICITOR GENERAL

March 28, 1956

MEMORANDUM TO THE GOVERNOR:

Re: Assembly Int. 2551, Pr. 2703, 4479

This bill amends the Labor Law by adding a new section, to be known as § 196-c.

This bill brings within the provisions of the Labor Law, as they relate to the requirement for payment of wages and salaries, persons other than mechanics, workingmen, laborers and commission salesmen. It provides that all other persons employed by an employer shall be paid their wages and salary in accordance with the agreed terms of employment. This would include such persons as clerical help and salespeople who, under the present statute, do not fall within the categories of mechanics, workingmen, laborers or commission salesmen, who are now covered by the statute. Under the bill, the wages or salaries paid to these persons, however, are not deemed "wages" under § 195 of the Labor Law, which requires payment of wages in cash or check under certain circumstances, or under the provisions of § 196 and 196-a, which set forth the time when salaries and wages are to be paid. The bill also exempts from its provisions any person employed in a bona fide executive, administrative or professional capacity, whose earnings are in excess of \$100 a week.

If this bill is approved, an employer of persons covered by it, who does not pay the wages and salary earned in accordance with the terms of employment, may be prosecuted under § 1272 of the Penal Law. At the present time there is no statutory provision for the prosecution of an employer who fails to pay wages or salaries to such persons.

This is a Labor Department bill and no legal objection appears to the approval of it.

Respectfully yours,

James O. Moore, Jr.
JAMES O. MOORE, JR.
Solicitor General



COMMERCE AND INDUSTRY ASSOCIATION OF NEW YORK

INCORPORATED

99 CHURCH STREET • NEW YORK 7, N. Y.

Cable Address: COMINDASSN • Telephone Rector 2-5200

March 28, 1956

Hon. Averell Harriman
Governor of the State of New York
Executive Chamber
Albany 1, New York

Re: Assembly Int. 2551, Pr. 4479

Dear Governor Harriman:

The Commerce and Industry Association supports the subject bill which was sponsored by the Department of Labor, was passed by the Legislature, and is now before you for action.

Under Article 6 of the Labor Law, the Industrial Commissioner is empowered to act on behalf of aggrieved employees in seeking to recover back-wage claims, through the courts or otherwise. However, "employee" is defined in the Labor Law to include only mechanics, workingmen and laborers; and this has been construed to exclude office workers. Consequently, white-collar employees with legitimate back-wage claims frequently have no effective way of recovering what is due them.

Thus, under the present law, if a recalcitrant employer fails to pay wages due to those in his employ, the Labor Department can act on behalf of his factory workers but must ignore the identical complaints of his office employees. White-collar workers are left to their own devices in pursuing back-wage claims. This often means that as a practical matter they have no real remedy at all.

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Sincerely yours,

Thomas Jefferson Miley
Executive Vice President

TJM:cw

13

BOARD OF DIRECTORS

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New York Central System
PERCY J. EBBOTT, Vice Chairman of Board,
The Chase Manhattan Bank
JAMES HILL, Jr., Chairman of Board, Sterling Drug Inc.
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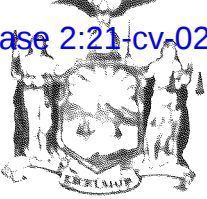
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EDMUND F. WAGNER, President,
General Realty & Utilities Corp.
FRANCIS L. WHITMARSH, President, Francis H. Leggett & Co.

EXECUTIVE

CHAMBER

MAR 29 5 12 PM 1956

STATE OF NEW YORK



EDWARD T. DICKINSON
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF COMMERCE
ALBANY

March 28, 1956

The Honorable Averell Harriman
Governor of the State of New York
Executive Chamber
State Capitol
Albany, New York

Attention: Hon. Daniel Gutman
Counsel to the Governor

Re: Assembly Introductory No. 2551
Print Nos. 2703, 4479

AN ACT

To amend the labor law, in relation to the payment of wages
and salaries

Dear Averell:

I recommend that this bill be approved.

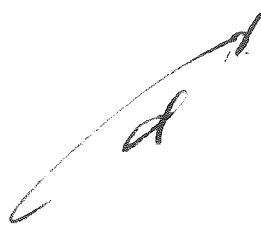
The Department of Labor contends that it lacks authority under Section 199 of the Labor Law to initiate proceedings to collect unpaid wages for clerical and other nonmanual workers and cites the definition of an employee as a "mechanic, workingman or laborer working for another for hire".

This bill, sponsored by that Department, adds a new section to specifically grant such authority to the Industrial Commissioner. The bill does not affect existing wage plans under which office workers are paid on a monthly or semi-monthly basis and exempts those in an administrative or professional capacity earning over \$100 per week.

The Honorable Averell Harriman - 2 - March 28, 1956

Some opposition exists among employer groups who maintain that the Commissioner in fact does possess such authority under the Labor Law. However, I am confident that these groups do not fundamentally object to the same protection for their nonmanual employees as is presently enjoyed by the manual workers.

Sincerely,

A handwritten signature, possibly 'd', is written in dark ink. It is positioned below the word 'Sincerely,' and above the page number '16'.



ANGELA R. PARISI
CHAIRMAN

WORKMEN'S COMPENSATION BOARD
STATE OF NEW YORK
80 CENTRE STREET
NEW YORK 13, N.Y.

APR - 3 P.M.

COMMUNAL TO THE GOVERNOR

April 2, 1956

Hon. Daniel Gutman
Counsel to the Governor
Executive Chamber
Albany, New York

Re: Assembly Print 4479
Intro. 2551

Dear Judge Gutman:

This bill would add a new Sec. 196-c to the Labor Law and would bring white collar workers under the wage provisions of this Law. The bill was introduced on recommendation of the New York State Department of Labor.

*plus
+
everyone
else* { The Labor Law requires the prompt payment of wages to "employees" and "employee" is now defined as a "mechanic, workingman or laborer working for another for hire". The effect of this restricted definition is that office workers, such as typists, clerks, and other non-manual employees are not covered by the Labor Law provisions for the prompt payment of wages.

The subject bill would permit the Department of Labor to assist the above, now excluded employees in the collection of their unpaid wages in the same manner that the Department now assists manual workers with their wage claims. The bill does not contain any specific time within which wages of white collar workers must be paid and hence would not affect semi-monthly or monthly wage plans. The bill would require an employer to "pay to each individual in his employ the wages and salary earned in accordance with the agreed terms of employment." Executives earning over \$100. a week are specifically exempted from the provisions of the bill.

where { The bill does not directly affect the administration of the Workmen's Compensation Law. However, its enactment would provide a needed remedy for an inequitable working condition and the Workmen's Compensation Board therefore has no objection to its enactment.

Very truly yours,

Angela R. Parisi

Angela R. Parisi
Chairman

30 LODGE STREET, ALBANY 7, NEW YORK • TELEPHONE 5-3547



FOUNDED IN 1914

Associated Industries of New York State, Inc.

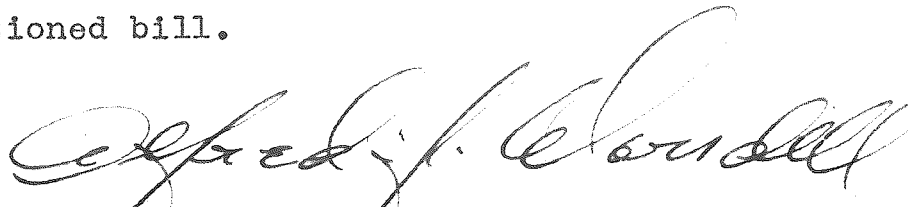
April 2, 1956

Hon. Daniel Gutman
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York

Dear Mr. Gutman:

Re: Assembly Int. 2551, Pr. 4479 (Ostrander)

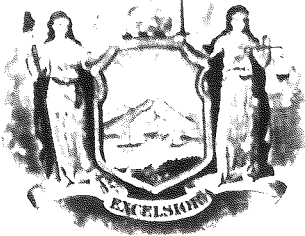
In response to your request, this will advise that we have no particular comments or recommendations concerning the above-captioned bill.



Alfred J. Worsdell, Jr.
Executive Assistant
to the President

AJW:ds

Enclosure



STATE OF NEW YORK
DEPARTMENT OF LABOR
ALBANY

NEW YORK OFFICE. 80 CENTRE STREET

A

ISADOR LUBIN
INDUSTRIAL COMMISSIONER

NEW YORK 13, N.Y. April 5, 1956

Honorable Daniel Gutman
Counsel to the Governor
Executive Chambers
State Capitol
Albany, New York

Dear Judge Gutman:

I am enclosing statement with reference to
Assembly Bill Int. No. 2551, Print No. 4479, by
Mr. Ostrander, to amend the labor law, in relation
to the payment of wages and salaries.

Very truly yours,

Isador Lubin
Industrial Commissioner

IL:AL
encl.

EX-100
HIGER

APR 6 4 23 PM 1956

STATE OF NEW YORK

20

MEMORANDUM TO HON. DANIEL GUTMAN
COUNSEL TO THE GOVERNOR

Re: Assembly Bill Int. 2551, Print No. 4479,
by Mr. Ostrander. To amend the labor law, in
relation to the payment of wages and salaries.

APPROVAL RECOMMENDED

This bill is sponsored by the Department of Labor. It is designed to permit the Department to assist typists, stenographers, clerks, and other office workers in the collection of their unpaid wages in the same manner that the Department now assists manual workers in their wage claims.


Under present law, the Department of Labor's authorization to assist in the collection of unpaid wages is limited to "employees" within the meaning of the Labor Law, that is, to mechanics, laborers or workingmen. This bill would extend the Department's authority to wage claims of all employed individuals. The measure does not contain any provision relating to how often wages and salaries of office workers must be paid, except that they must be paid in accordance with the agreed terms of employment. Thus, the bill would in no way upset existing wage plans under which office workers are paid on a semi-monthly or monthly basis. In addition, the bill exempts from its provisions persons employed in a bona fide executive, administrative or professional capacity whose earnings are in excess of \$100 a week.

The enforcement of wage payment provisions in the Labor Law is one of the functions of the Department's Division of Industrial Relations, Women in Industry and Minimum Wage. It is regrettable that the Legislature did not approve the Governor's request for additional investigators for the Division.

- 2 -

This bill marks an important advance in the modernization of archaic concepts in the Labor Law. There is no justification for denying office workers the same protection afforded manual workers.

I respectfully request that this bill be approved.


Isador Lubin
Industrial Commissioner

Dated: April 5, 1956

AN ACT

to amend the labor law, in
relation to the payment of
wages and salaries .

AN ACT to amend the labor law, in relation to the payment of wages and salaries

The People of the State of New York,
represented in Senate and Assembly,
do enact as follows:

Section 1. The labor law is hereby amended by inserting therein a new section, to be section one hundred ninety-six-c, to read as follows:

§ 196-c. Payment of wages and salaries of other persons employed.

Every employer carrying on a business by lease or otherwise shall pay to each individual in his employ the wages and salary earned in accordance with the agreed terms of employment.

The term "employer" as used in this section shall include any person, co-partnership, corporation, or joint stock association employing any individual in any occupation, industry, trade, business, or service,

The wages and salary described in this section shall be deemed to be wages of employees within the meaning of this article, except for the purposes of section one hundred ninety-five.

This section shall not apply to any person employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of one hundred dollars a week.

Nothing in this section shall be construed to avoid the requirement for complying with the provisions of sections one hundred ninety-six and one hundred ninety-six-a, or with the provisions of article nineteen of this chapter.

§ 2. This act shall take effect immediately.